

STATE OF IOWA
PROPERTY ASSESSMENT APPEAL BOARD

General Mills Cereals Properties,
Appellant,

v.

City of Cedar Rapids Board of Review,
Appellee.

ORDER

Docket No. 13-101-0682
Parcel No. 20121-26001-00000

On November 13, 2014, the above-captioned appeal came on for hearing before the Iowa Property Assessment Appeal Board. The appeal was conducted under Iowa Code section 441.37A(2)(a-b) and Iowa Administrative Code rules 701-71.21(1) et al. Attorneys Deb Tharnish and Chris James of Davis Brown Law Firm, Des Moines, represented General Mills Cereals Properties (General Mills). City of Cedar Rapids Assistant Attorney Mohammad H. Sheronick represented the Board of Review. The Appeal Board now having examined the entire record, heard the testimony, and being fully advised, finds:

Findings of Fact

The subject property is General Mills' industrial food processing facility located at 4800 Edgewood Road SW, Cedar Rapids, Iowa. The facility was constructed in phases from 1970 to 2011. The improvements include bulk ingredient terminals, manufacturing and processing areas, packaging area, warehouse space, shipping/receiving areas, offices, and other support areas such as mechanical rooms. (Exhibit H, p. v). According to the record, the improvements are roughly 1,250,000 square feet, which includes the main plant building, mezzanines, and contractor maintenance shop. (Exhibit H, p. vi). The site is 79.35 acres and has approximately 637,000 square feet of paved parking. (Exhibit H, p. 61).

In 2013, the property was assessed at \$23,955,821, allocated as \$1,417,372 in land value and \$22,538,449 in improvement value. General Mills protested the assessment to the City of Cedar Rapids Board of Review contending it was assessed for more than authorized by law under section 441.37(1)(a)(2) and asserting the correct value was \$16,250,000. The Board of Review denied the petition.

General Mills then appealed to this Board and contended the correct assessment should be \$15,300,000. This is roughly the same amount (\$15,583,000) to which the Appeal Board modified the subject's assessment in 2007, prior to the addition of the warehouse facility. (Exhibit G). At hearing, General Mills modified its request and asked that the Appeal Board set the assessment at \$8,700,000.

General Mills' Facilities Engineer Mark Robinson testified on its behalf. One of Robinson's responsibilities is oversight of the facility capital plan. Robinson detailed a general construction history of the subject property and discussed the layout of the plant as well as its general day-to-day operations. (Exhibit 5). The plant is currently being used to manufacture frosting, cereal, and fruit snacks. He explained that operations in the plant change depending on the market of a particular product or type of product being produced. The space can be repurposed when changes are made to the type of products being produced at the plant. The subject property is currently the second-ranked plant operated by General Mills.

He explained the mezzanine areas are permanent structures and admitted the current operations of the plant, which are the same as on January 1, 2013, require the use of these areas. He distinguished between concrete mezzanine areas that are permanent structures and steel mezzanines, which are subject to removal or replacement. Robinson explained that the permanent, concrete mezzanine amounts to approximately 250,000 square feet. Although, he

further explained that even the permanent mezzanine portions can be removed with some effort but there have been no changes in the mezzanine areas for the several years. The existing set up includes multiple levels of mezzanine space. (Exhibit 5).

Robinson testified to the physical characteristics of the plant structure. He explained the subject's concrete floor is only six inches thick and fork lifts can only be used on the first floor. In his prior experience working at a glass manufacturing facility, the concrete floor was thicker and cranes were used to move products. He stated that he would consider a glass manufacturer or paper mill a heavy industrial plant, which is different than the subject.

Robinson indicated that an April 2013 study indicated the property's improvements had \$2.8 million worth of deferred maintenance. He stated that when the deferred maintenance program is complete, they will have spent approximately \$3.1 million. He also testified that roadways on the property also had considerable deferred maintenance.

Kirk Hiland is the managing broker for NAI Iowa Realty Commercial in Cedar Rapids. Hiland performs brokerage, leasing, selling, and listing duties for NAI Iowa Realty. He was called to testify on behalf of General Mills. In Hiland's opinion, the industrial market in Cedar Rapids has been stagnant. He explained it can be difficult to get financing for industrial properties. He testified that the market time for a property like the subject would be a minimum of three years because it is a specialized property. He stated that a purchase would likely result in a change of use. In his experience, most industrial properties are vacant when sold, but vacancy does not impact these properties' sales prices. He further testified that if a property is on the market for more than three years and vacant, it probably means that property is not functionally usable by any buyer and the cost to make it usable is more than would they could build new.

Hiland testified that if he were marketing this property, he would first contact similar users. Then, he would go out to other users who could use a property of this size, configuration, and condition. He stated that any buyer would likely change the use of this property, most likely for some light industrial purpose.

When asked if he could recall any recent sales or leases of industrial properties, Hiland testified regarding the sale of a Terex industrial property that was sold to Mount Mercy College, torn down, and then used as athletics fields. He also testified regarding a sale “some years ago” of the FMC Building to a private investor that ultimately resulted in an industrial-use lease.

He also testified that a buyer of the subject property would likely remove the existing mezzanine during conversions for their use; therefore, he does not believe it adds value to the next user. However, Hiland acknowledged that the mezzanine does have value to General Mills.

Appraisals

The record includes two independent appraisals of the property. Jason Krentler is a Director within the Valuation and Financial Opinions Group of Stout Risius Ross, Inc., Southfield, Michigan. Krentler completed an appraisal and testified on General Mills’ behalf. (Exhibit 4).

The Board of Review submitted an appraisal completed by Clay Dodd of Patchin, Messner, Dodd, and Brumm, Burnsville, Minnesota. (Exhibit H). The following chart summarizes the approaches to value the appraisers used and their respective conclusions.

Appraiser	Sales Approach	Income Approach	Cost Approach	Final Opinion of Value
Krentler	\$8,700,000	N/A	\$9,000,000	\$8,700,000
Dodd	\$21,240,000	N/A	\$26,460,000	\$24,370,000

The Krentler Appraisal

Krentler completed the sales comparison and cost approaches to value. He relied solely on the sales comparison approach for his January 1, 2013, final opinion of value. His conclusions were as follows:

Appraiser	Sales Approach	Income Approach	Cost Approach	Final Opinion of Value
Krentler	\$8,700,000	N/A	\$9,000,000	\$8,700,000

He testified that a building consisting of one-million square feet or more is in “much more of a national market” with a limited buyer pool. He stated that since 2008, a lot of companies went out of a business or shuttered plants, resulting in a “flood” of available properties to be traded on the market. He notes that at the same time, there were limited buyers of these properties and brokers were drastically cutting prices. In his opinion, the market was improving as of January 1, 2013, but had not fully recovered.

Krentler’s narrative description of the subject property is minimal. (Exhibit 4, pp. 23-24). He relied on the assessment records and identified the property as having 1,083,104 square feet of building area, which does not include the mezzanine. His appraisal report does not discuss or describe the mezzanine; he simply identified it as having 126,586 square feet (Exhibit 4, p. 2). We note this is roughly half the mezzanine area identified by Robinson. He testified that he valued the mezzanine, but does not include it in the gross building area. In his opinion, market participants would not consider the mezzanine as useable building area. He explained that he adjusted his sales comparison approach to reflect the value the mezzanine space has in the market. He also stated that General Mills uses the existing mezzanine space, but asserts its use is simply to allow their current process and it is continually changing it to accommodate process changes; essentially, Krentler marginalizes the existing value of the mezzanine area to General

Mills going-concern operation as of January 1, 2013. Moreover, we note his assertion is not supported by Robinson's testimony that the mezzanine area has not changed in years and it is an integral part of its operations.

Krentler determined the property's highest and best use as improved is continued use as a light industrial/distribution facility. Krentler opined that the subject property is a light industrial manufacturing property rather than a heavy industrial manufacturing facility. He distinguishes between a light and heavy industrial building based on the depth of the concrete floor and the lack of a bridge crane or heavy power source that would be required for a heavy press line or other heavy industrial use. He stated that he considered valuing the property as a food manufacturing plant; however, he does not believe it is a specialized food manufacturer. In his opinion, a specialized food manufacturing plant would include such things as a heavy food-grade infrastructure involving heavy permanent partitioning, and sanitary requirements such as specific entrances and exits; further, the subject property does not have any cold storage or freezer space. Krentler's distinction between light and heavy manufacturing becomes clear as an essential component in his cost analysis.

He testified that if this property were marketed, it would be marketed to non-food manufacturers because there is a limited pool of buyers in the food industry. He stated the standard marketing time for a property like this is 18 to 36 months. He testified that, in his experience, large manufacturing facilities are listed at net book value or a "wish list price" and then reduced to their ultimate fair market value sales price.

Additionally, Krentler asserts the subject is not a "specialized property" or "special-purpose property," which he defines as "a building that can be used for no other use, such as an oil refinery or paper mill." He asserts a special-purpose property has no market; it would only

have value to the current business operation; and its only feasible use is its current use. In his opinion, because the subject property could be adapted to another use, most likely manufacturing, or industrial it is not a special-use property. He further contends a future buyer would likely remove the mezzanine.

In developing the sales comparison approach, Krentler testified that he based his search, in part, for comparable properties on the following criteria: similar location, size, highest and best use, and future use. He indicated he was unable to find any comparable sales in the Cedar Rapids market. Ultimately, he included five comparable properties in his analysis and adjusted them for differences to conclude an opinion of value. The following chart identifies Krentler's sales and some pertinent characteristics.

	Location	Sale Date	Sale Price/SF	Main Floor	Mezzanine	Total Bldg Area	Adjusted SP/SF
Subject	Cedar Rapids, IA			1,083,104	126,586	1,209,690	
Sale 1	Mosinee, WI	Jul-13	\$7.53	663,031	14,884	677,915	\$10.36
Sale 2	Stillwater, CA	Jun-12	\$11.18	670,785	44,215	715,000	\$9.09
Sale 3	Dyersburg, TN	Feb-12	\$4.71	785,610	0	785,610	\$5.31
Sale 4	Omaha, NE	Nov-11	\$5.65	1,239,587	62,317	1,301,904	\$5.83
Sale 5	Menasha, WI	Apr-11	\$5.69	834,147	21,641	855,788	\$7.47

The sales range in size from roughly 663,000 square feet to 1,240,000 square feet. Four of the sales Krentler relied on are 23-39% smaller than the subject property's main level, yet he only adjusted two (Sales 1 and 2) for differences in size. He asserts, "The remaining sales are similar in size to the subject" and were not adjusted. (Exhibit 4, p. 36). We note the differences between Sale 3 and 5 is 27% and 23% respectively. When looking at the total building area of each property compared to the subject, the differences increase, and the subject property is between 29% and 44% larger than four of the properties Krentler submits as comparable.

Krentler testified that he included the mezzanine space of the subject property in his analysis as part of his “other physical factors” adjustment. He describes that this element of comparison includes features such as the mezzanine area, the number of dock doors, and the percentage of air-conditioning of the main level. (Exhibit 4 p. 35). He adjusts all five sales upward for this element, indicating they are all inferior to the subject property. Although Krentler asserts he adjusted the properties based on the amount of space that has central air, there is no information in the report or his testimony that identifies either the subject or the comparable properties’ cooled square-foot area. The following chart shows the comparison of the remaining elements (dock doors and mezzanine space) that Krentler asserts he took into consideration in this line adjustment.

	Subject property	Sale 1	Sale 2	Sale 3	Sale 4	Sale 5
Mezzanine	126,586	14,884	44,215	N/A	62,317	21,641
Dock Doors	76	62	29	37	21	32
Adjustment		5%	5%	5%	15%	10%

Four of the sales have less than half of the dock doors as the subject property and none offers a comparable amount of mezzanine space to the subject as Krentler reports, although the rest of the record indicates the subject mezzanine is approximately 250,000 square feet. Sale 1 has less than 15,000 square feet of mezzanine but the most comparable dock door count to the subject property. Yet, it was adjusted the same as Sale 3, which has no mezzanine area, and half the dock door count as the subject. Sales 2 and 5 have similar dock door counts, which leave us to surmise that the 5% variance in their adjustments is due to their differences in mezzanine area; however, this does not reconcile with Sale 4, which has the highest adjustment, with relatively comparable dock door counts to Sales 2 and 5, but significantly more mezzanine area. Krentler’s report and testimony simply state that adjustments were made for these differences, but he did not elaborate on how the adjustments were determined or applied. Given the foregoing

observations, we do not find Krentler provided adequate explanation and therefore, we cannot conclude his adjustments for this element of comparison are reasonable.

Krentler also adjusted the sales for location. He testified that his adjustments were based, in part, on differences in land values. However, we note he estimated the land value for each of the comparable properties in his analysis of depreciation. (Exhibit 4, p. 49). The following chart compares his estimated site values and his location adjustments.

	Location	Site Size (Acres)	Estimated Site Value	Est. Site Value/Acre	Location adjustments
Subject	Cedar Rapids, IA	79.35	\$2,400,000		
Sale 1	Mosinee, WI	43.05	\$1,291,500	\$30,000	10%
Sale 2	Stillwater, CA	80.50	\$2,415,000	\$30,000	-5%
Sale 3	Dyersburg, TN	73.20	\$2,196,000	\$30,000	10%
Sale 4	Omaha, NE	93.83	\$2,814,900	\$30,000	-10%
Sale 5	Menasha, WI	39.59	\$1,187,760	\$30,000	10%

Krentler determined all of the comparables have a similar value-per-acre to the subject property, yet determined adjustments between -10% and 10%. Further, we note Sales 1 and 5 have roughly half the site size of the subject property, yet we do not see any reconciliation of this value difference in his sales comparison approach.

After other adjustments, Krentler arrived at a range of value of \$5.31 to \$10.36 per-square-foot for the comparable properties he selected. He believes all of the sales represent good transactions of large buildings demonstrating that owner-occupied properties like the subject sell for significantly less than the cost of new construction. He testified that a building like the subject would not sell as an occupied property and it is expected that these facilities are vacant when sold. He explained this is because the user of a successfully operating plant, like the subject property, would not move operations because of the effort it would require. We agree,

and as such, question the reliability of the sales approach for a property like the subject, a very large manufacturing facility.

Krentler developed the cost approach as a check but ultimately asserted the buyer of a property like the subject “will give it no consideration.” He, therefore, gave this approach no weight in his reconciliation. We disagree that a buyer would not consider the costs associated with building this property, because General Mills built an estimated \$16,000,000 warehouse addition in 2009 when instead it could have purchased or rented similar space in the Cedar Rapids area. However, we recognize that Krentler is essentially asserting a property like the subject would not be built for speculative use. We agree. Ultimately, we do not believe a property like the subject would be built with the expectation of it selling “tomorrow” or even in the next few years and for this reason, we believe the cost approach is significant because it best represents the *use being made of the property* as of the assessment date.

Krentler’s report identifies that each sale upon which he relies was a normal, arm’s length transaction. (Exhibit 4, p. 33). He testified that none of the sales were distressed and he confirmed this fact with people involved in the transactions. He defined “distressed sale” as transactions involving sellers that “need to get out” whom are trying to liquidate out of a need for funds. Unfortunately, his testimony about some of the sales transactions was limited. Furthermore, turning to the Comparable Property Data Sheets (Exhibit 4, pp. 68-77), we question the lack of adjustment for some of the sales that required immediate conversion costs by the buyer.

The record shows that the Mosinee comparable (Sale 1) was previously sold in Feb 2010 for \$8,007,200 from Dematteo Wisconsin Realty to Weather Shield Manufacturing. (Exhibit G). Weather Shield then listed the property for \$14,900,000 and it sold it Crystal Finishing Systems

in 2013 for \$4.9 million. Further, Krentler's appraisal notes the 2013 sale occurred after a "seller vacated the building due to a downturn in business following the recession." The sales history of this property and Krentler's notes indicate the 2013 sale may have involved distressed conditions, and we are not convinced this transaction represents a normal, arm's length sale. He adjusted this sale for deferred maintenance (roof) based on the buyer's expectations of that cost. Krentler explained that if a buyer is anticipating a significant cost immediately after purchase they are going to account for that in their purchase price. He testified that if a buyer recognizes they have to spend \$3.00 per foot right after closing the deal for a new roof, they are going to pay \$3.00 less to account for that cost.

Regarding Sale 2, Krentler testified that the prior owner was a manufacturer of fitness goods that decided to shutter the plant. He testified the buyer, an aerospace company, expended funds converting the property for their manufacturing process. The buyer had the expectation that they were going to lease out part of the property. When asked about the cost to convert the property to its new use, Krentler testified he did not believe it would affect value. We find this contradictory to his previous testimony, which acknowledges that a buyer *would pay less* for a property to account for immediately anticipated expenditures.

Krentler's testimony of Sales 3, 4, and 5 was limited. His verification of Sale 3 indicates that the buyer's intentions for the building were unknown but that it would be continued for industrial purposes. We note the building sold to West-Tenn Industrial Redevelopment, LLC, which may be an indicator it would be converted from single-tenant to multi-tenant use. (Exhibit 4, pp 74-75). Again, Krentler did not identify what, if any, conversion costs the buyer considered for redevelopment of this property.

Similarly, Sale 4 was purchased by Omaha Business Park, LLC, which also does not appear to be an owner-user. It may also be an indicator it was purchased for redevelopment to a multi-tenant use. Regardless, there is simply insufficient evidence in the record about this sale, its anticipated use, or conversion costs even if it were to be put to a similar single-tenant use like the subject property.

Sale 5 was converted from a single-owner light manufacturing, warehouse, and distribution facility to a multi-tenant facility housing several smaller light manufacturing, warehouse, and distribution companies. (Ex. 4, p. 77). Krentler made no adjustments for the costs to convert the property to its new use.

In developing the cost approach, Krentler grouped the subject's four building improvements into three categories according to *Marshall Valuation Service*. (Exhibit 4, p. 46). He chose to rely on *Marshall's* Industrials/Light Manufacturing category in determining his replacement cost new (RCN) for the manufacturing portion of the subject improvements. (Exhibit 4, pp. 46, 50). He included costs for the mezzanine and other features, as separate line items. He ultimately concluded a total RCN of the subject improvements of \$66,323,000 (rounded). He then applies 90% accrued depreciation, resulting in an indicated improvement value of roughly \$6,630,000. Krentler testified he used market extraction to determine the depreciation. (Exhibit 4, p. 49).

First, we find the extraction Krentler relied on was based on sales that may or may not have been used for similar purposes and he did not adequately consider the modification costs that would have had been necessary for the buyers to operate those buildings in the same manner as the subject as of January 1, 2013. Therefore, the depreciation in his analysis most likely includes a significant amount of functional obsolescence that does not exist in the going-concern

use of the subject property as of the assessment date. Moreover, we decline to rely on Krentler's opinion because we simply find it not credible and unworthy of belief. Suggesting a successful operating manufacturing plant, like the subject, has a 90% depreciated value of its cost to construct, is simply an unreasonable premise, especially given the roughly \$16,000,000 cost of the subject's relatively new warehouse. Krentler testified when the subject warehouse was built there was an oversupply of warehouse properties. The fact that General Mills was willing to spend \$16,000,000, when other improvements were available for purchase, demonstrates that users of this type of property will build new or improve existing operations despite the availability of other nearby properties for a fraction of the cost. We find Krentler's opinion disconnected with General Mills' actions, which demonstrates the going-concern of the subject improvements exceeds some unknown future use by an unknown buyer.

Further, we are unconvinced the mezzanine contributes no value to the property, as Krentler suggests. Although he states he considered the value of the mezzanine, we find his analysis lacks substantive evidence or explanation to support this assertion, and at best, undervalues the area given the significant import it has in the current operations of the subject property. Moreover, we believe it is unlikely that the sales approach *alone* could readily establish the value of the of the subject property, as it was used as of the assessment date. While the improvement could be sold for a future use that may or may not be similar to its current operations, facilities like the subject property are typically built for and used by an owner-user for decades. While Krentler did develop the cost approach, he gave it no consideration in his final opinion. For these forgoing reasons, we decline to rely on his conclusion of value.

The Dodd Appraisal

Dodd also completed the sales comparison and cost approach to value. However, unlike Krentler, he identifies the subject property as a special-use property and therefore asserts the cost approach is the best indicator of market value. (Exhibit H p. 104). Dodd considered both approaches in his final opinion of value. Dodd's testimony and report identify the subject as a special-purpose property. He states in his report, "given the specialized nature of the subject improvements, coupled with the general lack of comparable sales, the cost approach is given somewhat greater weight than the sales comparison approach." Like Krentler, Dodd did not find the income approach to value relevant to this property type and not reliable and did not develop that approach. (Exhibit H, p. 104). His conclusions were as follows:

Appraiser	Sales Approach	Income Approach	Cost Approach	Final Opinion of Value
Dodd	\$21,240,000	N/A	\$26,460,000	\$24,370,000

Dodd explained he began his sales comparison approach by searching for "large facilities that were related to food processing." The following chart summarizes selected information about his sales.

	Location	Date of Sale	Sale Price (SP)	Gross Building Area (GBA)	SP/GBA	Adjusted Value/GBA
Subject	Cedar Rapids, IA			1,249,965		
Sale 1	Pryor, OK	Sep-13	\$24,500,000	1,364,242	\$17.96	\$16.90
Sale 2	Sacramento, CA	Dec-13	\$13,755,000	1,612,725	\$8.53	\$11.38
Sale 3	Eagan, MN	Apr-13	\$7,400,000	335,174	\$22.08	\$19.67
Sale 4	North Liberty, IA	Apr-11	\$19,837,000	750,000	\$26.45	\$16.25
Sale 5	Cedar Rapids, IA	Sep-12	\$38,721,270	1,012,084	\$38.26	\$27.13

In Dodd's opinion, finding sales is "difficult and problematic." Dodd noted three of the comparable properties he found and used involved plants that had been shut down and vacated by the sellers. He noted, "In such cases, additional costs are often incurred by the buyer to ready the property for a new use." (Exhibit H, p. 104). Further, Dodd testified that while these plants do sell from time to time, in his experience it is difficult to find good sales of properties that have similar continued use. We agree. While we recognize there are few sales, if any, of properties as large as the subject that sell while occupied, we believe buyers are taking into consideration modification costs as part of their determination of an offer and ultimate sale price. As such, we think the sale prices will often undervalue the going-concern value of the subject, which assessor's may consider when setting assessed values.

His testimony explained his selection of sales and analysis in general. He included two distribution center sales because of the subject's large distribution warehouse. He testified a distribution facility has value in the Cedar Rapids area.

After adjustments for differences compared to the subject the adjusted sale price-per-square-foot ranged from \$11.38 to \$27.13 with an average adjusted value of \$18.27 and a median of \$16.90 per-square-foot. He ultimately concluded an opinion of \$18.75 per-square-foot for the subject property. After deducting for deferred maintenance, Dodd concludes a January 1, 2013, market value by the sales comparison approach of \$21,240,000.

General Mills was critical of Dodd for referring to the subject property as a special-purpose property, asserting it could have other uses. He testified there are different types of food processing facilities and the subject is set up to receive bulk materials, both liquid and dry, the multi-story nature of the facility, and its design for a certain type of food processing activity. Dodd agreed that the subject property could be put to another use; however, its best use would be

as a food processing facility and that any other use would require significant renovations and a “financial penalty” to utilize it for something else. General Mills’ position is that Dodd’s opinion is unreliable because he considered this to be a special-purpose property and therefore restricted his search of sales to those that would have a food-processing component. However, as previously noted, Dodd included two distribution center sales because of the subject’s large distribution warehouse.

In choosing to develop and rely most heavily on the cost approach, Dodd further explains that oftentimes the longer a property sits on the market; the holding costs to the owner can result in accepting a lower price further limiting the reliability of the sales comparison approach. Moreover, in his experience, the specialized properties have restrictions and will not be sold to competitors whose use would most closely mirror the present use. For these additional reasons, he believes the cost approach reflects the existing use of the property. We also note this is consistent with appraisal methodology.

Dodd relied on *Marshall Valuation Service* for his replacement costs. Like Krentler, he grouped the improvements into different categories; however, what distinguishes his analysis from Krentler’s is his use of different categories within *Marshall* to draw his costs. The area with the biggest difference is the main plant area. Krentler used the Industrials/Light Manufacturing category of *Marshall* in determining his RCN, whereas Dodd used a 50% Average-Good Light Industrial and 50% Average High Industrial category to determine his RCN. (Exhibit H p. 74). Dodd explained, that in his opinion, the subject property is simply not a “light” building envelope but rather, the engineering of these types of properties are designed to withstand the vibrations of mixing machines and packing lines. He testified that the facility also has several motor control centers and an electrical capacity of 34-megawatts necessary for

the manufacturing process. Ultimately, Dodd determined a total RCN of roughly \$100,732,000, compared to Krentler's opinion of a total RCN of roughly \$66,000,000. The greatest area of discrepancy is in the cost new of the manufacturing plant itself, which resulted in roughly a \$36,500,000 difference between the two appraisers.

Another difference between Dodd and Krentler is how they determined depreciation. Dodd applied the breakdown method of depreciation whereas Krentler extracted a total depreciation from the market. Dodd was critical of Krentler's approach because on properties like the subject where there is a limited market and each transaction sells differently and under different circumstances, extracting depreciation is less reliable. We agree.

Dodd explained that when he learns of a company's announcement to shutter a plant he keeps track of that information – his research indicates it is not unusual for properties like the subject to have a useful life of 60, 70, or 80 years old before they are finally retired. Given this, he is knowledgeable of how long these properties should expect to last and he uses this in his cost analysis and estimation of physical depreciation. His final opinion by the cost approach, after depreciation, is \$26,460,000.

Dodd also testified to his consideration of the subject's mezzanine in his sales comparison and cost approaches. In Dodd's opinion, the subject's "mezzanine" has all the characteristics of a second story including a substantial concrete slab, framing, and an HVAC system. He notes that some mezzanines are simply platforms with no HVAC, whereas the subject's mezzanine benefits from all the same lighting and amenities as the main floor area. He considers it part of the building area and his cost analysis bears that out. Further, Dodd testified that he has appraised many types of food-processing facilities and each one has its differences. For instance, some food-processing facilities may require stainless steel and impervious food-

grade finishes, whereas other food-processing plants may require gravity as part of its process. He explains this as background for his determination that the subject's mezzanine area is not simply to access the top of machine, but for the product and the workers to access the top of the machine as part of the manufacturing process. To his knowledge, the subject's main mezzanine has not changed since it was originally built despite the fact that General Mills' product lines have changed.

Jeffery Counsel provided rebuttal testimony for General Mills. Counsel works for CBRE, a global real estate firm, in its Chicago office. He works primarily in the large industrial area, which he defined as greater than 50,000 square feet, and in the last 16 years has worked exclusively in the food manufacturing and distribution plants. He was a broker in two of the transactions on which Dodd relied - Sales 1 and 2. He explained these sales were marketed to both food and non-food users. He believes Sales 1 and 2 were high-velocity, high-throughput manufacturing plants, which he thinks differ from the subject property. Further, he thinks because Google, which owned property adjacent to Sale 1 and eventually purchased it, affected the sale price. In short, he simply does not believe the sales are comparable to the subject.

Counsel testified that there is a very narrow market for a property like General Mills and that food manufacturers will not typically buy other existing food manufacturing facilities; but rather, they would buy new or extensively remodel. We agree, and find his testimony further supports the conclusion that the sales approach alone cannot readily establish the subject property's market value.

Conclusions of Law

The Appeal Board has jurisdiction of this matter under Iowa Code sections 421.1A and 441.37A (2011). This Board is an agency and the provisions of the Administrative Procedure

Act apply to it. Iowa Code § 17A.2(1). This appeal is a contested case. § 441.37A(1)(b). The Appeal Board determines anew all questions arising before the Board of Review related to the liability of the property to assessment or the assessed amount. § 441.37A(3)(a). The Appeal Board considers only those grounds presented to or considered by the Board of Review. § 441.37A(1)(b). But new or additional evidence may be introduced. *Id.* The Appeal Board considers the record as a whole and all of the evidence regardless of who introduced it. § 441.37A(3)(a); *see also Hy-Vee, Inc. v. Employment Appeal Bd.*, 710 N.W.2d 1, 3 (Iowa 2005). There is no presumption that the assessed value is correct. § 441.37A(3)(a).

Initially, the burden of proof in an assessment protest rests with the taxpayer, who “must establish a ground for protest by a preponderance of the evidence.” *Compiano v. Polk Cnty. Bd. of Review*, 771 N.W.2d 392, 396 (Iowa 2009). However, if the taxpayer “offers competent evidence by at least two disinterested witnesses that the market value of the property is less than the market value determined by the assessor, the burden shifts to the board of review to uphold the assessed value.” *Id.* at 396-397; § 441.21(3). Failure to shift the burden of proof is not equivalent to failing to satisfy the burden of proof. *Id.* at 397. “Ultimately, the burden of proof is one of persuasion,” which “comes into play after all of the evidence is introduced at hearing.” *Id.* at 397 n.3. In this case, General Mills has not shifted the burden because it did not provide expert opinions of value by two disinterested witnesses and therefore must establish its claims by a preponderance of the evidence.

General Principles of Law Applicable to Assessment of Real Property

In Iowa, property is assessed for taxation purposes following Iowa Code section 441.21. Iowa Code subsections 441.21(1)(a) and (1)(b) require property subject to taxation to be assessed

at its actual value, or fair market value. *Soifer v. Floyd County Bd. of Review*, 759 N.W.2d 775, 778 (Iowa 2009).

“*Market value*” is defined as the fair and reasonable exchange in the year in which the property is listed and valued between a willing buyer and a willing seller, neither being under any compulsion to buy or sell and each being familiar with all the facts relating to the particular property.

§ 441.21(1)(b). In determining market value, “[s]ales prices of the property or comparable property in normal transactions reflecting market value, and the probable availability or unavailability of persons interested in purchasing the property, shall be taken into consideration.”

Id. Using the sales price of the property, or sales of comparable properties, is the preferred method of valuing real property in Iowa. *Id.*; *Compiano*, 771 N.W.2d at 398; *Soifer*, 759 N.W.2d at 779; *Heritage Cablevision v. Bd. of Review of Mason City*, 457 N.W.2d 594, 597 (Iowa 1990).

“[A]bnormal transactions not reflecting market value shall not be taken into account or shall be adjusted to eliminate the effect of factors which distort market value.” § 441.21(1)(b).

Abnormal transactions include, but are not limited to, foreclosure or other forced sales, contract sales, or discounted purchase transactions. *Id.*

“[A]lternative methods to the comparable sales approach to valuation of property cannot be used when *adequate* evidence of comparable sales is available to *readily* establish market value by that method.” *Compiano*, 771 N.W.2d at 398 (emphasis added). “Thus, a witness must first establish that evidence of comparable sales was not available to establish market value under the comparable-sales approach before the other approaches to valuation become competent evidence in a tax assessment proceeding.” *Id.* (citing *Soifer*, 759 N.W.2d, at 782); *Carlson Co. v. Bd. of Review of Clinton*, 572 N.W.2d 146, 150 (Iowa 1997). The first step in this process is determining if *comparable* sales exist. *Soifer*, 759 N.W.2d at 783. If PAAB is not persuaded as

to the comparability of the properties, then it “cannot consider the sales prices of those” properties. *Id.* at 782 (citing *Bartlett & Co. Grain Co. v. Bd. of Review of Sioux City*, 253 N.W.2d 86, 88 (Iowa 1977)).

Whether other property is sufficiently similar and its sale sufficiently normal to be considered on the question of value is left to the sound discretion of the trial court.

Id. at 783 (citing *Bartlett & Co. Grain*, 253 N.W.2d at 94).

Similar does not mean identical and properties may be considered similar even if they possess various points of difference. *Id.* (other citations omitted). “Factors that bear on the competency of evidence of other sales include, with respect to the property, its ‘[s]ize, use, location and character,’ and, with respect to the sale, its nature and timing. *Id.* (other citations omitted). Admitted sales must be adjusted “to account for differences between the comparable property and the assessed property to the extent any differences would distort the market value of the assessed property in the absence of such adjustments. *Id.* (other citations omitted).

However, where PAAB is convinced that comparable sales do not exist or cannot *readily* determine market value than other factors such as cost and income can be used. § 441.21(1)(b); *Compiano*, 771 N.W.2d at 398 (citing *Soifer*, 759 N.W.2d at 782); *Carlson Co.*, 572 N.W.2d at 150; § 441.21(2).

Finally, assessors are permitted to consider the use of property as a going concern in its valuation. *Riso v. Pottawattamie Cnty. Bd. of Review*, 362 N.W.2d 513, 517 (Iowa 1985). When an assessor values property as a going concern, “he is merely following the rule that he must consider conditions as they are.” *Soifer*, 759 N.W.2d at 788 (quoting *Maytag Co. v. Partridge*, 210 N.W.2d 584, 590 (Iowa 1973)). The assessor is “recognizing the effect of the use upon the value of the property itself. He is not adding on separate items for good will, patents, or personnel.” *Id.*

Claim of Over-Assessment

To prevail on a claim that an assessment is for more than authorized by section 441.21(1), the law requires two showings. *Heritage Cablevision*, 457 N.W.2d at 597. First, the record must show the property is over assessed; and second, what the fair market value of the property should be. *Id.*; *Boekeloo*, 529 N.W.2d at 276-277. If PAAB “determines the grounds of protest have been established, it must then determine the value or correct assessment of the property.” *Compiano*, 771 N.W.2d at 397. Here, PAAB “makes its independent determination of the value based on all the evidence.” *Id.*

Analysis

At the outset, our review of this matter is hampered by the disparate valuations offered by both parties. Each appraiser reached different conclusions as to the usability of the property, the reliability of various approaches, and this ultimately resulted in a wide variance between their conclusions of value.

As previously noted, this is not the first occasion that General Mills has sought a reduction in its assessment. PAAB previously modified the 2007 assessment of the subject property to \$15,583,000, prior to construction of the warehouse addition.

Because General Mills has not shifted the burden of proof and Dodd’s appraisal determined a value higher than the current assessment, we do not believe it necessary in this case to evaluate his analysis. *See Carroll Area Child Care Center, Inc. v. Carroll County Bd. of Review*, 613 N.W. 2d 252, 254 (Iowa 2002) (citing *First Nat’l Bank v. City Council*, 136 Iowa 203, 206, 112 N.W. 829, 830 (1907)). Rather, we need only decide if Krentler’s appraisal shows the current assessment is excessive and reflects the property’s correct value to sustain General Mills’ burden of establishing the property is assessed for more than authorized by law.

References to Dodd's testimony and appraisal are made only to the extent they are necessary to our review of Krentler's analysis. We ultimately conclude that Krentler's appraisal does not demonstrate the subject property is over-assessed and does not accurately reflect the property's fair market value for assessment purposes.

First, we conclude that the subject's fair market value cannot be readily established by the sales comparison approach alone and that other valuation methods must be used to determine the property's fair market value. § 441.21. Despite their best efforts, we are not convinced that the sales offered by the parties were sufficiently comparable to the subject or that accurate adjustments could be made to render them comparable. *Heritage Cablevision*, 457 N.W.2d at 598 ("The fact that one litigant calls witnesses who purport to testify as to comparable sales does not in itself establish that market value can readily be determined in that manner. That determination requires a qualitative evaluation rather than a quantitative evaluation.").

Hiland, Krentler, Dodd, and Counsel all essentially testified that there is a limited pool of buyers for properties like the subject and they rarely trade on the market. When they do, the purchasers often have to make significant modifications to convert the property to their use. Given the nature of this property – its size, use, characteristics, limited pool of buyers, etc. – it is prudent to consider additional valuation methods. *Id.* (The advantage of using multiple appraisal techniques lies primarily in those instances where the differing techniques lead to similar conclusions concerning market value and therefore tend to support each other.). Consistent with Iowa law and appraisal methodology, when sales alone cannot adequately establish the subject's value, we look to other valuation methods to determine the property's correct value. § 441.21(1)(b). Here, because of the limited sales of comparable properties and the fact that the subject is a non-income producing property, we pay particular attention to the cost approach to

value. *See* APPRAISAL INSTITUTE, THE APPRAISAL OF REAL ESTATE 566 (14th ed. 2013) (noting the cost approach may be used to develop an opinion of value of a property that is not frequently exchanged in the market).

Many of the sales submitted by both parties involved properties that had been vacant for months, if not years. While the testimony is clear that it is not uncommon for large, industrial properties to sit vacant prior sale, we are concerned that the underlying reason that caused the vacancy would also render any subsequent sale an abnormal transaction. Here, at least two of the five sales Krentler used were properties that shut down because of economic conditions. While he testified he believed that the sales were normal, arm's length transactions, his definition of "distressed" is not consistent with Iowa law. *See* § 441.21(1)(b). We are not convinced of his due diligence in evaluating the sales conditions, as demonstrated by the incomplete information offered in his report regarding Comparable 2 in Mosinee. His report fails to note whether multiple sales on which he relied were normal, arm's length sales and, if he was aware of any abnormal conditions, he made no adjustments.

Second, Krentler provided minimal description of the subject property in his report; and his narrative about the mezzanine is limited to reporting its size. Ultimately, we find he values the mezzanine to an unknown future user and does not consider the present use of the mezzanine as of January 1, 2013. In our opinion, this undervalues the going concern of the subject property.

General Mills describes the mezzanine as an integral part of its processes and use of the subject property. An assessor may consider the use to which tangible property is being put to "recognize the use upon the value of the property itself." *Maytag*, 210 N.W.2d at 590. Further, in *Homemakers Plaza v. Polk County Bd. of Review*, Homemakers submitted two appraisals and both appraisers attributed no value to the property's mezzanine space because, in their opinion,

the next purchaser would likely remove it or it would go unappreciated by potential buyers. 828 N.W.2d 326 (Iowa Ct. App. 2013) (unpublished). The Court of Appeals upheld the District Court's rejection of those appraisals and concluded an appraisal valuing the property in its present use most accurately assessed the property's value. *Id.* Similarly, in *Ruan Center Corp. v. Bd. of Review of Des Moines*, the Iowa Supreme Court found that tenant-added improvements "were not just of special value to the particular tenants who installed them," but increased the building value. 297 N.W.2d 538, 541 (Iowa 1980). The Court noted that, "although some improvements . . . are not of value to every potential tenant," there was no evidence that a new tenant "could not use the space." *Id.* at 541-42.

It is clear that in considering the value of the property as of January 1, 2013, the mezzanine was being used by General Mills and its use enhanced the operation of the facility as a whole. That is to say, while the mezzanines have inherent value, they also enhance the value of the entire manufacturing facility by easing the flow of production inputs. While perhaps not all future users of the property will see equivalent value in the mezzanine space, that does not, by itself, render them valueless. We find that Krentler's failure to adequately consider the current use of the mezzanines ultimately undervalues not only the mezzanines, but the property as a whole. Additionally, we do not find his adjustments for the mezzanine or his location adjustments to be supported or logical.

Third, Krentler did not make any adjustments to his comparables for his expenditures made by the purchaser to ready the facility for the buyer's use. Counsel testified regarding the extensive remodeling that is necessary when a food manufacturer purchases a property. Dodd also testified to the remodeling and conversion cost considerations that may impact a sales price. At a minimum, Sales 2 and 5 required some modifications to ready the facility for the buyers'

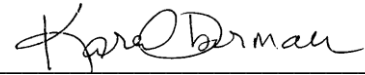
intended uses. Consistent with appraisal methodology, positive adjustments should have been made to these sales prices to account for these modifications. APPRAISAL INSTITUTE, THE APPRAISAL OF REAL ESTATE p. 412-14 (14th ed. 2013). Without adjustments, the price ultimately reflects a value less than its full utility to the purchaser. The case law concerning property assessment is clear that a building is not valued as an empty shell, but that the assessor may properly consider the property's value as a going concern. *Soifer*, 759 N.W.2d at 787 (citing *Lake City Elec. Light Co. v. McCrary*, 132 Iowa 624, 110 N.W. 19, 20 (1906) (stating that assessor was entitled to consider property as a going concern "instead of mere aggregation of dead material."))).

Krentler also developed the cost approach, but he gave it no consideration in his final opinion of value. Moreover, he applied a 90% straight-line depreciation to the subject property and its improvements, which we find unreasonable. General Mills constructed a large warehouse-distribution center in 2009 at a cost of roughly \$16,000,000. Yet, according to Krentler, this component would effectively have a contributory value of \$1,600,000 only four years later. Given testimony from General Mills and other professionals, we do not find this a credible conclusion. Further, his 90% depreciation figure was based on sales that, as we previously discussed, lack assurances of reliability and do not include appropriate adjustments to reflect the value of an operable manufacturing facility.

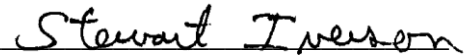
In total, we find that Krentler's appraisal fails to value the subject as a going concern, operating manufacturing facility, and does not fairly and accurately represent the property's fair market value as of January 1, 2013. For the foregoing reasons, this Board finds that General Mills has not established the property's correct value and has not sustained its burden of showing the property is assessed for more than authorized by law.

THE APPEAL BOARD ORDERS the January 1, 2013, assessment of General Mills' property is affirmed.

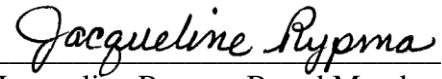
Dated this 16th day of April, 2015.



Karen Oberman, Presiding Officer



Stewart Iverson, Board Chair



Jacqueline Rypma, Board Member

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